

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Wesson Analyst: Marion Mann DeJong Bill Number: AB 41

Related Bills: See Legislative History Telephone: 845-6979 Amended Date: 05/28/1999

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Allow Cash Bond Payments & Preserve Taxpayers' Right To Raise New Grounds

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.

☒ OTHER - See comments below.

SUMMARY OF BILL

This bill would allow taxpayers to make a deposit in the nature of a "cash bond" to stop the running of interest and still preserve the taxpayer's right to raise new grounds disputing the validity of an assessment.

SUMMARY OF AMENDMENT

The May 28, 1999, amendments deleted the provisions relating to an employment and training tax credit and deleted the provision making the bill a tax levy.

Except for the Effective Date, the discussion of the cash bond provision in the department's analysis of the bill as amended April 5, 1999, still applies. A new Effective Date is provided. In addition, the Implementation and Technical Considerations, Fiscal Impact and Board Position are reiterated below.

EFFECTIVE DATE

This bill would become effective January 1, 2000, and would apply to payments made on or after that date.

IMPLEMENTATION CONSIDERATIONS

This provision essentially would codify current practice. Under current practice, taxpayers can make voluntary payments to stop the running of interest, and they can raise new issues before the Board of Equalization.

TECHNICAL CONSIDERATIONS

This bill would raise the following technical considerations. Department staff

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department/Legislative Director Date

Johnnie Lou Rosas 6/17/1999

is available to assist the author with any necessary amendments.

1. It is unclear whether this bill would allow the taxpayer to post a cash bond for an amount less than the full deficiency amount. If the purpose of the bill is to give taxpayers the right to raise new issues, it is unclear whether the bond is necessary.
2. This bill would require the department to promulgate rules and regulations to adopt provisions of federal Revenue Procedure 84-58 (1984-2 C.B. 501). Revenue Procedure 84-58 contains rules and procedures relating to items other than payments in the form of cash bonds to stop the accrual of interest. It is unclear whether this bill would require the adoption of rules relating to the other issues in Revenue Procedure 84-58.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

This bill would not result in significant revenue change overall. It is projected that the amount of interest not received in any given year from the posting of cash bonds would approximately equal the savings in interest payments by the department in cases where taxpayers ultimately prevail.

BOARD POSITION

Pending.

At its March 23, 1999, meeting the Franchise Tax Board voted 2-0 to take a neutral position on the cash bond provision of this bill as introduced December 7, 1998. The Board has not had an opportunity to review the amendments to the cash bond provision.